IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

-

WRIT PETITION NO : 14775 of 1994

Between:

Marapatla Rani Raju S/o George Raju, R/o Dippakayalapadu, Koyellagudem (M), West Godavari Dist.

..... PETITIONER

AND

1 The Court of Co-operative Appellate Tribunal (Dist.Munsif) Chintalapudi, W.G. Dist.
2 The Secretary, Chintalapudi Primary Agricultural Coop. Society Chintalapudi, W.G. Dist.
3 The Registrar Coop. Societies Eluru, W.G. Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to declare the order Dt: 28-3-1994 passed in I.A.No.442/93 in CTA No.1/92 on the file of the Co-operative Appellate Tribunal (District Munsif) Chintalapudi, as illegal and unjust by giving an opportunity to the petitioner restoring CTA No.1/92, by issuing any appropriate Writ, order or orders as are deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.M.V.S.SURESH KUMAR

Counsel for the Respondent Nos.1 and 3: GP FOR COOPERATION

Counsel for the Respondent No.2: None appeared

The Court made the following:

ORDER:

This writ petition is filed seeking a declaration that the orders dated 28.03.1994 passed in I.A.No.442 of 1993 in C.T.A.No.1 of 1992 by the Cooperative Appellate Tribunal (District Munsif), Chintalapudi, as arbitrary and illegal.

The petitioner was the Secretary of Chintalapudi Primary Agriculture Cooperative Society during the years 1989 and 1990. It appears that an inspection was conducted by the Cooperative authorities under Section 52 of the Andhra Pradesh Cooperative Societies Act and Rules, 1964 (for short 'the Act') and on the basis of the same, a surcharge notice was issued to the petitioner under Section 60(1) of the Act on 20.03.1992. Thereafter, the Deputy Registrar of Cooperative Societies passed an order dated 25.09.1992 under which the petitioner was exonerated so far as item Nos.2 to 5 specified in the notice dated 20.03.1992, however, he was held responsible for item No.1. Aggrieved by the same, the petitioner filed C.T.A.No.1 of 1992 on the file of the Cooperative Appellate Tribunal (District Munsif), Chintalapudi.

It appears that the said appeal was dismissed for default on 23.11.1993. The petitioner filed I.A.No.442 of 1993 to set aside the order of dismissal and for restoration of the appeal stating that since the Advocates in all the Sub-ordinate Courts in Andhra Region were abstaining from the Courts from June, 1993 onwards, his counsel who was a practising advocate at Eluru, could not attend the Court. It was also stated that the petitioner was also under an impression that the Courts were not functioning and therefore he did not attend the

Court. It was pleaded that the absence of the petitioner as well his counsel was not intentional and therefore, the order of dismissal dated 23.11.1993 may be set aside and the appeal may be restored to the file. The said application was dismissed by the learned District Munsif by order dated 28.03.1994, which is under challenge in this writ petition.

I have heard the learned counsel for the petitioner and the learned counsel appearing for the respondents.

It is relevant to note that this writ petition is pending from 1994 and interim stay of all further proceedings in C.T.A.No.1 of 1994 has been operating since then.

The fact that during the said period agitation was going on by the Advocates in the Subordinate Courts for a long time has not been disputed by the respondents. However, it appears that from 2-11-1993 the Advocates at Chintalapudi were attending the Courts. Admittedly, the petitioner's counsel was practising at Eluru and it appears that he was under an impression that the Advocates were still abstaining from the Courts. Having regard to the facts and circumstances of the case, it cannot be said that no sufficient cause was made out for non-appearance of the petitioner and his counsel. In view of the fact that the application was filed within limitation and since admittedly at the relevant point of time agitation was going on by the Advocates of the Subordinate Courts for a long time, to meet the ends of justice, the Court should have adopted a liberal approach, so that the Appeal can be decided on merits.

Though notice is served, the 2nd respondent society did not put in appearance. In the circumstances, I deem it appropriate to set aside the orders of dismissal.

Accordingly, the impugned order is set aside and I.A.No.442 of 1993 shall stand allowed. The writ petition is accordingly disposed of with a direction to consider the appeal on merits and pass appropriate orders in accordance with law expeditiously. No costs.

18.08.2004

VGB

To

1 The Court of Co-operative Appellate Tribunal (Dist.Munsif)
Chintalapudi, W.G. Dist.
2 The Secretary, Chintalapudi Primary Agricultural Coop. Society
Chintalapudi, W.G. Dist.
3 The Registrar Coop. Societies
Eluru, W.G. Dist.

4 2CCs to the Government Pleader for Cooperation, High Court Buildings, Hyderabad (OUT)

5 2CD copies